

From: Eric Sheffer
To: Microsoft ATR
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Subject: Microsoft Settlement

I am against the Proposed Final Judgement in United States v. Microsoft.

I believe that the Proposed Final Judgement (PFJ) is severely flawed. There are many inconsistencies between definitions outlined in the Court's Finding of Fact and those in the PFJ that introduce loopholes in the remedy which will enable Microsoft to continue the monopolistic and anticompetitive behavior that spurred the suit. If these loopholes are not addressed, then the years of litigation and vast sums expended on behalf of American consumers will be for naught.

Specifically, four definitions outlined in the PFJ need to be altered to close these loopholes. They are:

(1) Definition A: "API" -- This PFJ definition of API pertains only to interfaces between Microsoft Middleware and Microsoft Windows, and excludes Windows APIs used by application programs. As written, this definition might omit important APIs such as the Microsoft Installer APIs, or APIs introduced into Windows to specifically support Microsoft application software.

(2) Definition J: "Microsoft Middleware" -- The PFJ definition of "Microsoft Middleware" enables Microsoft to exclude any software from being covered by the definition in by changing product version numbers or changing how Microsoft distributes Windows or its middleware. The Court's Finding of Fact definition, which defines middleware as software that itself presents a set of APIs which enable new applications to be written without reference to the underlying operating system, should instead be adopted.

(3) Definition K: "Microsoft Middleware Product" -- This PFJ definition specifically excludes several Microsoft products for or on which developers create applications using underlying APIs. Excluded are Microsoft.NET and Microsoft C#, Microsoft Outlook and Microsoft Exchange, and Microsoft Office and its component applications (Microsoft Word, Microsoft Excel, Microsoft PowerPoint and Microsoft Access). These products should be included in the definition because they provide important APIs for application development.

(4) Definition U: "Windows Operating System Product" -- This PFJ definition includes Windows 2000 Professional, Windows XP Home, Windows XP Professional and their successors yet excludes the

operating system products Windows XP Tablet PC Edition and Windows CE. Many applications are available that will run without modification on both the included and excluded operating system products. This definition should include an operating system that can execute programs written to the Windows API.

Without modification to these definitions, I believe this PFJ, if adopted, will provide enough loopholes to enable Microsoft to escape justice.

Thank you for your attention.

Sincerely,

Eric Sheffer